

PROFESSIONAL ENGINEERS SECTION MEETING

MINUTES

The Professional Engineers Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on August 5, 2009, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Nico De León (arrived 9:12 a.m.)

Stanley C. Harris

Wiley V. Johnson, III

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director

Mark N. Courtney, Deputy Director of Licensing and Regulation

Kathleen "Kate" R. Nosbisch, Executive Director

Earlyne Perkins, Legal Analyst

Amy Goobic, Administrative Assistant

No representative was present from the Office of the Attorney General.

Mr. Harris, Chair, called the meeting to order at 9:02 a.m.

Call to Order

Mr. Harris advised the section of the emergency evacuation procedures.

Emergency Evacuation Procedures

Mr. Johnson moved to approve the agenda. Mr. Harris seconded the motion which was unanimously approved by members: Harris and Johnson.

Approval of Agenda

There were no comments made to the Section members.

Public Comment Period

Ms. Aktuglu and her employer, Mr. Paul Johnson, were present to address the Section. Ms. Aktuglu thanked the Section for their consideration of her application. Mr. Johnson was in attendance to support Ms. Aktuglu and to express to the Section his confidence in her experience and abilities.

File Number 2009- 03911, Ipek Aktuglu

Regarding **File Number 2009-03911, Ipek Aktuglu**, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits and the summary and recommendation of the presiding Board member. Mr. Johnson recommended the Board accept the recommendation of the presiding Board

member and approve Ms. Aktuglu to sit for the PE examination under 18VAC10-20-210.3.

As the reviewing Board member Mr. Harris was not present during the discussion or vote.

Regarding **File Number 2009-04078, Walter Johnson Fitzgerald** the Section members reviewed the Consent Order as seen and agreed to by Mr. Fitzgerald. Mr. Johnson recommended that the Board accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-750.A (Count 1) and 18VAC10-20-750.C (Count 2). For these violations Mr. Fitzgerald agrees to pay \$150.00 in Board costs. In addition, for violation of Count 1, Fitzgerald agrees to an 18 month probation of his license as of the effective date of this order. During this probation, Fitzgerald agrees to:

- (1) Comply with the rules and regulations of the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects;
- (2) Not be convicted of any local, state, or federal laws.

If Mr. Fitzgerald violates any terms of this probation, his license shall be automatically revoked.

As the reviewing Board member Mr. Harris was not present during the discussion or vote.

Mr. De León arrived at 9:12 a.m.

Mr. Stephenson and Mr. Wilcox Dunn, Counsel, were present to address the Section. Mr. Dunn spoke on behalf of Mr. Stephenson and stated that by participating in the IFF, Mr. Stephenson had attained a better understanding of the process and the regulations. Mr. Dunn presented a letter to the Section requesting a post IFF Consent Order.

The Section members took a five minute break to review the letter presented by Mr. Dunn.

Regarding **File Number 2009-01623, George Charles Stephenson**, a post-IFF Consent Order was presented to Mr. Stephenson; the Section members reviewed the Consent Order as seen and agreed to by Mr. Stephenson. Mr. Harris moved to recommend that the Board accept the Consent Order which cites a violation of 18VAC10-20-730.C (Count 1); 18VAC10-20-710.A (Count 2); 18VAC10-20-710.B (Count 3); 18VAC10-20-760.B (Count 4) and 18VAC10-20-760.B.3 (Count 5) of the Board's

File Number 2009-04078, Walter Johnson Fitzgerald

Arrival of Mr. De León

File Number 2009-01623, George Charles Stephenson

Break

File Number 2009-01623, George Charles Stephenson

regulations. For these violations Mr. Stephenson agrees to a monetary penalty of \$5,000.00 as well as \$500.00 in Board costs for a total monetary penalty of \$5,500.00. In addition to the monetary penalties and Board costs, Mr. Stephenson agrees to be placed on probation for a period of 2 years from the effective date of the order and to comply with the following terms:

1. Suspension of Stephenson's professional engineer license for a period of 6 months from the effective date of the order; and
2. Complete 3 hours of continuing education pertaining to ethics in the practice of engineering. Stephenson must provide proof acceptable to the Board of course completion within 6 months of the effective date of the order. Satisfactory completion of the above-referenced course will not count towards any continuing education requirements for renewal of license.

In addition, the Board agrees to close Counts 2 and 5 with no further action.

Mr. De León seconded the motion which was unanimously approved by members: De León and Harris.

As the reviewing Board member, Mr. Johnson was not present during the presentation, discussion or vote.

Regarding **File Number 2009-04076, Thomas Price**, the Section members reviewed the Consent Order as seen and agreed to by Mr. Price. Mr. Johnson moved to recommend that the Board accept the Consent Order which cites a violation of 18VAC10-20-750.B (Count 1) and 18VAC10-20-750.C (Count 2) of the Board's regulations. For these violations Mr. Price agrees to a monetary penalty of \$250.00, as well as \$150.00 in Board costs, for a total monetary penalty of \$400.00. Mr. Harris seconded the motion which was unanimously approved by members: Harris and Johnson.

File Number 2009-04076, Thomas Price

As the reviewing Board member, Mr. De León was not present during the presentation, discussion or vote.

Regarding **File Number 2009-0376, W. Gray Hodge**, the Section members reviewed the Consent Order as seen and agreed to by Mr. Hodge. Mr. Johnson moved to recommend that the Board accept the Consent Order which cites a violation of 18VAC10-20-750.B (Count 1) of the Board's regulations. For this violation Mr. Hodge agrees to pay \$150.00 in Board costs. In addition, for violation of Count 1, Hodge agrees to probation of his Virginia license for a period to coincide with the probation period agreed to in the Settlement Stipulation with the Florida Board of Professional Engineers ("Florida Settlement Stipulation") referenced in Count 1 of

File Number 2009-03763, W. Gray Hodge

the Report of Findings. During this probation, Hodge agrees to:

- (1) Comply with the terms of the probation contained in the Florida Settlement Stipulation and to provide to the Board proof of compliance.
- (2) Provide to the Board proof of completion of the terms of the probation agreed to in the Florida Settlement Stipulation.

If Hodge violates any terms of this probation, his Virginia license shall be automatically suspended until such time as there is complete satisfactory compliance with the Florida Settlement Stipulation. Mr. Harris seconded the motion which was unanimously approved by members: Harris and Johnson.

As the reviewing Board member, Mr. De León was not present during the presentation, discussion or vote.

Ms. Nosbisch provided NCEES information to the Section: NCEES will be making a donation of \$75,000 to the National Museum of Surveying in Springfield, Illinois; effective October 2010, NCEES will not recognize proctored candidates with the exception of the U.S. military; NCEES exam fees will be increasing in jurisdictions where they are contracted to give the exam.

Discussion of NCEES Topics

Ms. Nosbisch informed the Section that she had received endorsement letters for Howard "Skip" Harclerode and Gene Dinkins, both are running for NCEES Treasurer.

The Section took a break at 9:40 a.m. to review letters from Mr. Klaus Worrell.

Break

Ms. Nosbisch informed the Section members that she had contacted Mr. Worrell to let him know his letters would be on the meeting agenda. Mr. Worrell had written a letter to the agency requesting several points of clarification on the authority of plan reviewers. The Section discussed each point and expressed their professional opinions on each topic. Ms. Nosbisch will draft a response letter to Mr. Worrell from the Section.

Discussion of letters received from Mr. Klaus Worrell, PE

Mr. Johnson moved to have Mr. Harris remain as the Section Chair. Mr. De León seconded the motion which was unanimously approved by members: De León, Harris and Johnson.

Election of Section Chair

The Section members were provided copies of the Professional Engineers licensing section of the regulations to review and prepare suggested changes. Ms. Nosbisch explained that each section would concentrate on their respective licensing portions and a future committee, with a representative from each section, will discuss the full board regulations.

Regulatory Review

Ms. Nosbisch reported that two new board members have been appointed: Michael LeMay, Architect and Andrew Scherzer, Landscape Architect. She also informed the Section that COIA training will be held at the September 15 APELSCIDLA meeting.

Other Business

Ms. Nosbisch informed the Section members that she had received several letters opposing the BS+30 that NCEES is considering. Mr. Harris stated that this would be a major topic of discussion at the upcoming NCEES 2009 Annual Meeting.

Mr. DeBoer informed the Section that the agency had received confirmation that due to the adjustments to the Appropriations Act, effective July 1, 2009, per diems for citizen board members had been suspended. The suspension pertains to all board members with the exception of legislators.

Discussion was held on the possibility of Conflict of Interest if a company that manufactures an engineered product that a staff PE has sealed, and then the PE was also paid for site work.

Mr. De León reported that VDOT was checking on many companies to ensure they are properly registered as business entities. Several VDOT contracts have been rescinded, as they do not meet the business registration requirements.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:13 a.m.

Adjourn

Stanley C. Harris, Chair

Jay W. DeBoer, Secretary